

This Board finds that the Claimant received proper notice of the charges and hearing, that Claimant was fully prepared to go forward at the hearing, and that the Claimant received a full and fair hearing. Furthermore, this Board affirms the finding of fact adduced at the investigation that threats, sufficient in force to place the yardmaster in fear of bodily harm to his person with the apparent

present ability of the maker to actuate those threats, were made by the Claimant. Although the record indicates a slight argument to the contrary, we do not find it persuasive to overturn the finding of fact made at the investigation.

"The precedent is well established that this Board should not substitute its judgment for that of the Carrier in discipline cases where it has produced substantial evidence that the offense charged was committed. While the administration of disciplinary action should not seem haphazard or capricious, it is clear that the imposition of discipline is within managerial discretion." (Second Division Award 6196)

"It must be reiterated here that this Board is not a tribunal of original jurisdiction. Our function, particularly in discipline cases as established by the Railway Labor Act, as amended, is to review the record, ascertain whether the Controlling Agreement had been complied with; the Claimants were afforded due process; there was substantial evidence to sustain a finding of just and sufficient cause for the discipline imposed; and that the action taken by the Carrier was not arbitrary, capricious or unreasonable." (Second Division Award 6368)

No carrier can be expected to run a safe and efficient operation when threats of bodily harm are tolerated, whether those threats be among employees or between employees and management. Therefore, we find that the Carrier, based upon the record, was fully justified in reaching the findings of fact so reached and also in imposing the measure of discipline so determined in this case. It should be pointed out that there are always conflicts among occupations not only in the rail transportation industry, but also all work situations. Threats are not the method of resolving these problems. The controlling agreement clearly states that the Claimant should have filed a grievance and resolved the problem in the established process.

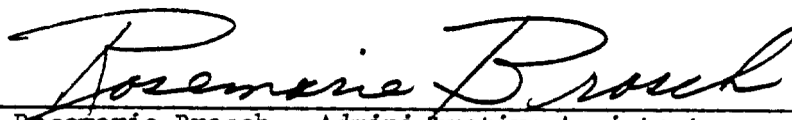
A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest: Acting Executive Secretary  
National Railroad Adjustment Board

By

  
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 30th day of June, 1982.